

## **REMARKS**

The Office Action of August 10, 2004 has been studied in detail along with the references applied and cited by the Examiner. In response, selective claims have been amended (claims 1, 6, 7 and 9) and new claim 16 presented for consideration. Claim 8 has been canceled. The pending claims should be read in conjunction with the accompanying arguments in support of patentability. Further examination and reconsideration of the application as amended are respectfully requested.

Applicant notes that Examiner has withdrawn the finality of the rejection of the last Office Action upon further review of applicants' arguments in the Appeal Brief filed May 24, 2004 and in view of the newly discovered art.

## **APPLICANTS' RESPONSE TO EXAMINER'S INTERVIEW SUMMARY**

The identification of references, Rabuse and Bastian, Jr., was provided to applicants on August 3, 2004 and August 5, 2004, respectfully. Agreement could not be reached with respect to an Examiner's amendment addressing all of the claims (claims 1-10). In order to properly respond to these references and Examiner's comments, applicants desired a formal Office Action from the Examiner from which a proper response could be developed.

### **Office Action**

Claim 7 stands rejected under 35 USC §102(b) as being anticipated by Rabuse (U.S. Patent No. 2,772,774).

Claims 1-[11] 10 stand rejected under 35 USC §103(a) as being unpatentable over Schonhorns (EP 0 430 548) in view of Rabuse.

Claims 1-10 stand rejected under 35 USC §103(a) as being unpatentable over Rabuse in view of Bastian, Jr. (U.S. Patent No. 3,179,245).

### **Rejections Under 35 USC §102(b)**

The Examiner rejected claim 7 under 35 USC §102(b) as being anticipated by Rabuse.

Amended claim 7 now recites a compressible foam strip surrounding the core. Additionally, amended claim 7 recites that a length of adhesive tape is wound in several turns about the core and the foam strip. None of the aforementioned structures, in independent claim 7, are shown in Rabuse. Applicants submit that the pending independent claim 7, and all claims dependent therefrom, are not anticipated by Rabuse for at least these reasons set

forth above, and are allowable over this record art. Applicants accordingly request reconsideration and allowance thereof.

**Rejections Under 35 USC § 103(a)**

The Examiner next rejected claims 1-[11]10 under 35 USC § 103(a) as being unpatentable over Schonhorn, et al. in view of Rabuse. The Examiner states that Schonhorn, et al. discloses a length of adhesive tape comprising three portions; a leader portion fixed to the core (Figure 6, No. 20), a foam support portion (Figure 5, No. 60) and a usable tape portion wherein a foam strip is fixed to the tape foam support portion (Figure 6, No. 20; column 5, lines 4-6). To the contrary, Schonhorn, et al. does not disclose a length of adhesive tape comprising three portions. Schonhorn, in one embodiment, describes a severed core including a space between the ends of the core. The discontinuous core is then wrapped with tape. In this embodiment, the tape is wrapped directly onto the core and does not utilize foam about the core nor fixed to any portion of the tape. In another embodiment, Schonhorn, et al. describes a non-severed core with foam. “The foam may be secured to the core by per se known adhesive means, e.g., a pressure sensitive adhesive” (column 5, lines 4-6). The foam in Schonhorn is secured to the core by adhesive. The first and second embodiments of Schonhorn are not combinable with one another and teach away from each other. Thus, Schonhorn, et al. does not anticipate nor teach a length of adhesive tape comprising three portions including a leader portion fixed to the core, a foam support portion, and a usable tape portion wherein a foam strip is fixed to the tape foam support portion.

The references contain no motivation or suggestion to combine the references. Furthermore, combining Schonhorns, et al. with Rabuse, though not suggested in the references, would not result in a foam support portion positioned after a leader portion and before a usable tape portion, as recited in amended claim 1.

The Examiner states that Schonhorn discloses “a usable tape portion wherein a foam strip is fixed to the tape foam support portion (Figure 6, No. 20; column 5, lines 4-6).” To the contrary, Schonhorn, et al. describes in Figure 6 a collapsible core, as shown and described in Figure 4, which has subsequently collapsed after the winding of the tape. Figure 6 does not describe nor teach a foam strip fixed to a tape foam support portion. Furthermore, Figure 6 recites a severed core which, as described in Schonhorn, et al., is not used with a foam strip or foam support portion.

Independent claim 7 now recites a compressible foam strip surrounding the core and a first portion of the tape adhering to the core and a usable tape portion wound in several turns about the core and the foam strip. Combining Schonhorn, et al. with Rabuse, though not suggested in the references, would not result in the claimed structure of the present application. Consequently, independent claims 1 and 7, and all claims dependent therefrom, define over any fair teachings attributable to the references that are taken singularly or in combination.

Furthermore the Examiner states that Bastian, Jr. further "teaches a leader portion fixed to the core (Figure 1, No. 16, beginning of the tape portion)." To the contrary, Bastian, Jr. does not teach a leader portion fixed to the core. The tape 16 is wound about a resinous sponge 14. The resinous sponge 14 surrounds a core 12. Thus, the tape is spaced apart from the core by sponge 14 and, therefore, not fixed thereto.

The Examiner next rejected claims 1-10 under 35 USC §103(a) as being unpatentable over Rabuse in view of Bastian, Jr. The references contain no motivation or suggestion to combine the references. Furthermore, Bastian, Jr. teaches away from Rabuse. In particular, Bastian, Jr. recites the Rabuse patent in the background and describes the disadvantages of the disclosure. "Specifically, Bastian, Jr. recites that for Rabuse it is necessary to design and produce a specific core, and achieving proper alignment upon an uneven surface when wrapping or winding the tape upon the core require very accurate control of the winding process." The arguments raised with respect to claims 1-10 with respect to references of Schonhorn, et al. and Rabuse are equally appropriate here and will not be repeated. Claims 1-10 are not made obvious for at least the reasons stated above. Applicants request reconsideration and withdraw the §103 rejection of Claims 1-10 and allowance thereof.

#### Information Disclosure

Applicant submitted an Information Disclosure Statement including three patents and a copy of a web page on February 7, 2001. Upon review of the Examiner's consideration dated February 14, 2002, it is noted that the copy of the web page was not listed. Thus, applicant encloses with this amendment another copy of the web page.

All formal and informal matters having been addressed, this application is in condition for allowance. Early notice to that effect is solicited.

Respectfully submitted,

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Under 37 C.F.R. § 1.8, I certify that this Amendment is being

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The main content area features a product image of "One Touch Tape" with a roll of tape and a dispenser. The text "One Touch" is prominently displayed above the image.

Below the product image, there's a list of features:

- One handed use
- Small and compact
- Refillable - smart & economical
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- Precise - no wasted tape
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